

Appl. No. 10/706,375  
Docket No. 9098  
Amdt. dated June 20, 2006  
Reply to Office Action mailed on March 20, 2006  
Customer No. 27752

## REMARKS

### Claim Status

Claims 1 – 9 and 18 – 22 are pending in the present application. No additional claims fee is believed to be due. Claims 1 – 9 have been withdrawn as a result of an earlier restriction requirement.

### Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 18 – 22 are rejected under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action states that it is unclear as to what the valleys and land areas are in Claim 18.

Figure 9 of the current application is a schematic side view of a molded, textured, spunlaced, nonwoven web of the current invention. As may be seen in the upper layer, the surface, of the nonwoven web of Figure 9, there are both raised and lowered portions. The lowered portions of the upper layer of the nonwoven web are the valleys of Claim 18 and the raised portions are the land areas. Figure 14 of the current application is a photograph of a molded, textured, spunlaced, nonwoven web of the current invention such as the type represented in Figure 9. Raised and lowered portions, in an undulating manner, of the nonwoven web may be viewed in the photograph. The lowered portions are the interconnected valleys of Claim 18 and the raised portions are the land areas. Therefore, Applicant respectfully asserts that Claims 18 – 22 meet the definiteness requirement of 35 U.S.C. § 112, Second Paragraph.

### Rejection Under 35 U.S.C. § 102 Over Trokhan

Claims 18 – 22 have been rejected under 35 U.S.C. § 102(b) as anticipated by Trokhan et al. (U.S. Patent No. 5,895,623) (“Trokhan”). Applicants respectfully traverse this rejection.

Trokhan fails to teach each and every element of Claim 18 and therefore does not anticipate the claimed invention. Claim 18 is directed to a molded, textured, spunlaced, nonwoven web comprising fibers having an average length of from about 10 mm to about

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60 mm. The web also comprises a surface comprising a pattern of valleys and land areas such that the valleys are interconnected and each of the valley areas have a surface area of from about  $0.1\text{mm}^2$  to about  $8\text{mm}^2$ .

Trokhan is directed to a method of forming apertured webs comprising the steps of forming a foraminous member comprising both gross and fine foramina, providing a layer of fibers on the gross foramina and applying fluid streams to the layer of fibers such that the fibers are randomly entangled. Thus, the apertured web produced by Trokhan is produced by a hydroentanglement process. The foraminous member of Trokhan utilizes a photosensitive resin at a thickness selected to produce projections of a desired height on the foraminous member. It is the projections that define the apertures produced in Trokhan as the fibers are pushed away from the projections thus forming "apertures or open areas in the fibrous web." Col. 16, lines 8 – 12. Trokhan, further, is concerned with "clean" apertures in which no fibers cross over the apertures. Col. 7, lines 45 – 48. As such, the apertures of Trokhan provide for areas of the web over which very few, if any at all, fibers extend.

The Office Action puts forth that the apertures of Trokhan read upon the land areas of the current application since "there would at least be a few fibers therein in order to form the land area as recited." The apertures of Trokhan, however, are not the equivalent of the land areas of the current application. The apertures of Trokhan are open areas comprising very few fibers. Fig. 5 of Trokhan illustrates a photomacrograph depicting an apertured web. The apertures (the dark spots) are, in effect, "holes" in the web as few fibers cross over those areas. The molded fibrous structure of the current invention, however, does not comprise "holes." The molded fibrous structure comprises valleys, lowered areas of the fibrous structure, between land areas, raised areas of the fibrous structure. Figures 9 and 14 of the current invention illustrate such a molded fibrous structure. Figure 14 is a readily comparable photograph to that provided in Trokhan. As may be seen in Figure 14, there is a lack of a presence of apertures or holes in the fibrous structure of the current invention. This is a result of the lack of displacement of the fibers in such a manner as would produce an aperture, or hole, as in Trokhan. The fibers of the current invention are displaced during the molding process to create a pattern of undulations in the fibrous structure (as visible in Figure 14), however, the fibers are not displaced to the extent that holes are formed. The Office Action is

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attempting to equate Trokhan's clean apertures (i.e., apertures with few or no fibers crossing them) to the land areas of the current application. Trokhan provides two options for the apertures, either few fibers or no fibers. Figure 5 of Trokhan illustrates apertures with few or no fibers to resemble actual holes in the fibrous structure. This is not a teaching of a fibrous structure of the current invention in which the fibers simply undulate throughout the structure in raised and lowered areas. Figure 14 of the current application clearly illustrates the lack of apertures comprising few or no fibers crossing over. Thus, Trokhan has failed to teach each and every element of the claim. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Trokhan

Claims 18 – 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Trokhan. Applicants respectfully traverse this rejection.

Trokhan, as stated above, teaches an apertured web. The apertures of Trokhan are areas comprising few or no fibers crossing over them. Claim 18 of the current application requires valleys between land areas. Both the valleys and the land areas of the current application comprise fibers, and more than just a few fibers as may be seen by Figures 14 and 15. Figures 14 and 15 of the current application depict a molded fibrous structure of the current application. The molded fibrous structure does not comprise apertures such as those visible in Figure 5 of Trokhan. The Office Action has not put forth any motivation as to why one of skill would modify the fibrous web of Trokhan to arrive at the fibrous structure of the current application. Applicants therefore respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Daponte in view of Trokhan

Claim 18 – 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Daponte (U.S. Patent No. 4,863,779) in view of Trokhan. Applicants respectfully traverse this rejection.

There are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. Obviousness can only be established by combining the prior art if there is some teaching, suggestion, or motivation to do so found either explicitly or

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implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The Office makes the argument that it would have been obvious to have used fibers of the recited length of Trokhan because these fiber lengths are known to be used in forming spunlaced webs. The combination of the two publications, however, must still teach or suggest each and every element of the claimed elements. A combination of the respective disclosures in this instance would be improper because there is no suggestion in the references themselves to make Applicants' claimed invention.

Daponte fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Daponte teaches an improved composite material comprising an elastic web bonded to at least one other web, and preferably interrelated between two other nonwoven webs of spun-bonded or melt-blown fibers. Daponte further teaches a method of making these composite materials. Daponte fails to teach or suggest a molded, textured, spunlaced nonwoven web, the specific length of the fibers and that the valleys between the land areas are interconnected as recited in Claim 18. The Office Action is relying on the Trokhan reference for the teaching or suggestion of the length of the fibers. There is, however, still no teaching or suggestion in either reference, alone or in combination, of valleys being interconnected.

Claim 18 requires the valleys to be interconnected. The embossing steps of Daponte's process provide for embossed areas 26 (noted to be square valleys in the Office Action) in composite material. The composite material is made by passing overlain webs 16', 4' and 20' between a calendar roll and an anvil roll. The gatherable webs, 16' and 20', are heat-bonded to the fibrous elastic web, 4'. The bond sites of the three overlain webs are spaced apart resulting in gathers or pleats, 16a and 20a, in the gatherable webs 16' and 20'. The Office Action states that the gathers of 16a and 20a depict a continuous valley area such as that of the current application. The web of Daponte, however, does not teach or suggest the elements of the claimed invention. The claimed invention requires a molded, textured, spunlaced, nonwoven web. Daponte does not teach or suggest a molded, textured, spunlaced, nonwoven web. Daponte teaches a composite material comprising gatherable webs heat-bonded to an elastic web. The composite material of Daponte is not a molded, textured, spunlaced, nonwoven web. Furthermore,

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Daponte does not teach or suggest that the gathers are the result of a molding process. Rather, the gathers are the result of a heat-bonding process. The interconnected valleys and land areas of the current molded nonwoven web are the result of a molding process which Daponte fails to teach or suggest.

The combination of Trokhan with Daponte still fails to teach or suggest a molded nonwoven structure comprising interconnected valleys. Thus, neither reference, alone or in combination, teaches or suggests interconnected valleys. In the absence of evidence that suggests the desirability of combining references in a proposed manner, such combination is not available to preclude patentability under 35 U.S.C. § 103. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853 (Fed. Cir. 1985). Based on a lack of motivation to combine the two references, Applicants respectfully submit that the rejection is improper.

Daponte fails to teach or suggest each and every element of Claim 18. The addition of Trokhan does not overcome the failed teachings of Daponte. Reconsideration and withdrawal of this rejection are respectfully requested.

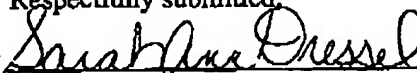
#### Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §§ 112, 102, and 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 18 - 22 are respectfully requested.

Respectfully submitted,

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